

REMARKS

Claims 1-57 remain present in this application.

Claim 1 has been amended. Reconsideration of the application, as amended, is respectfully requested.

Rejection under 35 USC 102(e)

Claims 1-6, 9-16 and 19 stand rejected under 35 USC 102(e) as being anticipated by CHEN et al., U.S. Patent 6,861,339. This rejection is respectfully traversed.

The Examiner asserts that "Chen discloses, in figures 3 and 4, a method of preventing peeling between two silicon layers, comprising the steps of: providing a first layer (16) having a first silicon material (col. 4, lines 29-30); performing a hydrogen treatment on the first layer (16) to form a hydrogenated surface (18) thereon (sol. 4, lines 30-31 and 45-49); and forming a second layer (20) having a second silicon material on the hydrogenated surface (18) of the first layer (16)(col. 5, lines 14-16)."

Independent Claim 1

It is noted that independent claim 1 of the present application recites (emphasis added):

1. A method of ***preventing peeling between two silicon layers***, comprising the steps of:
 - providing ***a first sacrificial layer*** having a first silicon material;
 - performing a hydrogenated treatment on the first sacrificial layer to form a hydrogenated surface thereon; and
 - forming ***a second sacrificial layer*** having a second silicon material on the hydrogenated surface of the first sacrificial layer.

It is clear that independent claim 1 is a method of ***preventing peeling between two silicon layers***. However, Chen **does not disclose** the organization or purpose of preventing peeling between two silicon layers, but a method for ***fabricating laminated silicon gate electrode***.

In addition, the method of claim 1 comprises the steps of providing a **first sacrificial layer** and providing a **second sacrificial layer**. However, Chen **does not disclose** a first sacrificial layer and a second sacrificial layer.

It is therefore respectfully submitted that Chen fails to teach or suggest the method of independent claim 1, as well as its dependent claims 2-6 and 9.

Independent Claim 10

Independent claim 10 recites (emphasis added):

10. A method of **preventing peeling between two silicon layers** in the microelectromechanical structure (MEMS), comprising the steps of:

providing a first layer having a first silicon material;

performing a hydrogenated treatment on the first layer to **form a H-treated silicon surface with Si-H bonds thereon**; and

forming a second layer having a second silicon material on the H-treated silicon surface.

Similarly, independent claim 10 is a method of **preventing peeling between two silicon layers**.

However, Chen **does not disclose** the organization or purpose of preventing peeling between two silicon layers, but method for **fabricating laminated silicon gate electrode**.

In addition, the method of claim 10 comprises the step of performing a hydrogenated treatment on the first layer to **form a H-treated silicon surface with Si-H bonds thereon**. However, Chen discloses “the blanket first silicon layer 16 which is formed of the polysilicon material is treated with a first hydrogen treatment 18 to form therefrom a **hydrogen treated blanket first silicon layer 16**”(see column 4, lines 29-30, for example). **The hydrogen treated blanket first silicon layer 16 is not confined as a H-treated silicon surface with Si-H bonds thereon**.

It is therefore respectfully submitted that Chen fails to teach or suggest the method of independent claim 10, as well as its dependent claims 11-16 and 19.

Accordingly, reconsideration and withdrawal of the 35 USC 102(e) rejection are respectfully requested.

Rejection Under 35 U.S.C. 103

Claims 7, 8, 17, 18, 27, 28, 40, 41, 54 and 55 stand rejected under 35 USC 103 as being unpatentable over CHEN et al. in view of CHINN et al., U.S. Publication 2004/0033639. This rejection is respectfully traversed.

Claims 20-26 and 29 stand rejected under 35 USC 103 as being unpatentable over Huibers et al., U.S. Patent 6,741,383, in view of Chen et al. This rejection is respectfully traversed.

Claims 30-30, 42-53, 56 and 57 stand rejected under 35 USC 103 as being unpatentable over Huibers et al. in view of Chen et al. and further in view of Chinn et al. This rejection is respectfully traversed.

Since Chen is the only prior art utilized by the Examiner under 35 U.S.C. 102(e), it is respectfully submitted that the provisions of 35 U.S.C. 103(c) are applicable. That is, since at the time the invention was made, the subject matter of Chen and the claimed present invention were owned by or subjected to an obligation of assignment to the same person. It is therefore respectfully submitted that Chen may not properly be used in rejecting the pending claims.

Furthermore, it is respectfully submitted that neither Chinn nor Huibers teach or suggest all the limitations recited in the independent claims 1, 10, 20, 30 and 44, or their dependent claims.

Accordingly, reconsideration and withdrawal of the 35 USC 103 rejections are respectfully requested.

Conclusion

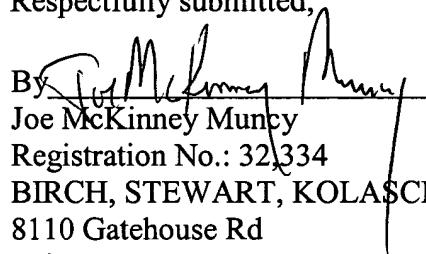
Favorable reconsideration and an early Notice of Allowance are earnestly solicited.

In the event that any outstanding matters remain in this application, the Examiner is invited to contact the undersigned at (703) 205-8000 in the Washington, D.C. area.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Dated: July 29, 2005

Respectfully submitted,

By 

Joe McKinney Muncy

Registration No.: 32,334

BIRCH, STEWART, KOLASCH & BIRCH, LLP

8110 Gatehouse Rd

Suite 100 East

P.O. Box 747

Falls Church, Virginia 22040-0747

(703) 205-8000

Attorney for Applicant